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TAX AND WEALTH ADVISOR ALERT: THE IMPORTANCE OF A DURABLE FINANCIAL POWER OF ATTORNEY

A proper estate plan covers not only what should happen upon your death, but also what should happen if you lose your decision-making skills. While planning for incapacity may be as unpleasant as planning for death, it is an important step in the estate planning process. Planning for incapacity ensures that someone you specifically choose and trust can act on your behalf while you are unable to do so for yourself. One key document to help you plan for incapacity is the Durable Financial Power of Attorney.

A Durable Financial Power of Attorney allows you to appoint someone, your "agent" or "attorney-in-fact," to manage your financial affairs in the event you are unable to so for yourself. The word "durable" simply means that the power of attorney remains in effect after you become incapacitated or incompetent. These documents are fairly flexible, allowing you to give your agent broad or limited power. Further, you can choose to either give your agent immediate power or to make your agent's power effective only once you've been determined to be incapacitated.

Some examples of tasks your agent can perform include paying your bills, managing your assets, filing an insurance claim, and even hiring a lawyer. It is easy to believe that a Durable Financial Power of Attorney is unnecessary if you don't own many assets or if you own assets jointly with someone else. However, some of these actions require your agent to have specific legal authority to act on your behalf, and the Durable Financial Power of Attorney would provide your agent with that authority.

If you do not get a power of attorney and you were to become incapacitated or incompetent, then your family would need to ask the court to appoint someone to act on your behalf. Not only could the court appoint a stranger to manage your financial affairs, but also this process can be expensive, public, and time consuming. Having a proper estate plan that covers what should happen if you become incapacitated or incompetent will save you and your loved ones time and money.

Keep in mind, though, that a Durable Financial Power of Attorney would not allow your agent to continue managing your financial affairs after your death. For this reason, these

documents are often drafted as part of a larger estate plan.

The attorneys at O’Neil Cannon have experience in drafting various estate plans, both simple and complex, and would be happy to discuss the estate planning process with you. If you are interested in learning more about estate planning, please contact attorney Kelly M. Spott.